

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

NATHANIAL JAMES DAVIS, JR.,

Plaintiff,

v.

SCOTT ALEX SPEER,

Defendant.

No. C10-5185 RJB/KLS

ORDER GRANTING DEFENDANTS'  
MOTION TO STAY DISCOVERY

Before the Court is Defendant's motion to stay discovery pending resolution of Defendant's Motion to Dismiss. ECF No. 20. For the reasons stated below, the Court finds that the motion to stay should be granted.

**BACKGROUND**

This matter is proceeding under the Second Amended Complaint of Defendant Nathaniel James Davis, Jr., filed on July 8, 2010. ECF No. 12 (also docketed at ECF No. 16). Mr. Davis alleges violations of the Fifth and Thirteenth Amendments based on due process violations relating to a prison disciplinary hearing and a finding of guilt for failure to provide a urine sample. ECF No. 12.

On September 15, 2010, Defendant Speer filed a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), arguing that Plaintiff has failed to state a claim upon which relief can be granted

1 and that he has failed to allege the personal participation of Defendant Speer. ECF No. 20.

2 Defendant also requests that all discovery be stayed pending the court's resolution of the motion  
3 to dismiss.

4 **DISCUSSION**

5 The court has broad discretionary powers to control discovery. *Little v. City of Seattle*,  
6 863 F.2d 681, 685 (9<sup>th</sup> Cir. 1988). Upon showing of good cause, the court may deny or limit  
7 discovery. Fed. R. Civ. P. 26( c). A court may relieve a party of the burdens of discovery while  
8 a dispositive motion is pending. *DiMartini v. Ferrin*, 889 F.2d 922 (9<sup>th</sup> Cir. 1989), amended at  
9 906 F.2d 465 (9<sup>th</sup> Cir. 1990) *Rae v. Union Bank*, 725 F.2d 478 (9<sup>th</sup> Cir. 1984).

11 The court agrees that the parties should not face the burden and expense of responding to  
12 discovery as to claims that may not survive the pleading stage. Accordingly, it is **ORDERED:**

13 (1) Defendant's motion to stay discovery pending resolution of his motion to dismiss  
14 (ECF No. 20) is **GRANTED**.

16 (2) All discovery is **STAYED** pending further order of this Court.

17 (3) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.

18  
19 DATED this 3rd day of November, 2010.

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22 Karen L. Strombom  
23 United States Magistrate Judge  
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